



Phillips Lytle LLP

Via ECF

September 1, 2021

The Honorable Nina Gershon
United States District Judge
The Honorable Roanne L. Mann
United States Magistrate Judge
United States District Court
for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Joint Status Report: *Suffolk County Water Authority v. The Dow Chemical Co. et al.*,
No. 2:17-cv-6980-NG-RLM, and Related Cases

Dear Judge Gershon and Judge Mann:

On behalf of all 32 Parties in the referenced cases, and consistent with the status report provided to Judge Mann on August 13, 2021 (ECF 192), the Parties update below their progress regarding discovery items raised in Defendants' Motions to Compel (ECF 173, 174), as referenced in prior status reports (ECF 179, 180, 183, 188, 192), regarding other discovery items previously reported to the Court, and regarding additional case updates.

I. Discovery Items Related to Defendants' Prior Motions to Compel

Following conferral, further information exchanges, and Plaintiffs' (and their consultants') production of various additional materials after the hearing on Defendants' Motions to Compel, Defendants are reviewing Plaintiffs' additional document productions. If Defendants believe there are remaining issues with Plaintiffs' productions, they will confer with Plaintiffs. All Plaintiffs reserve their right to continue to supplement their document productions as necessary or otherwise required by the Federal Rules.

II. Third-Party Complaints

On August 30, 2021, Defendants The Dow Chemical Company, Ferro Corporation and Legacy Vulcan Materials, LLC ("Third-Party Plaintiffs") filed third-party complaints seeking contribution from Third-Party Defendants in 17 of the 27 cases. Exhibit A to this letter identifies the 84 Third-Party Defendants, and the cases in which they have been named. Third-Party Plaintiffs will promptly serve Third-Party Defendants and file proofs of service by September 20, 2021 as set forth in the Scheduling Order. ECF 171 at 3.

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Hon. Nina Gershon
Hon. Roanne L. Mann
Page 2

September 1, 2021

III. Third-Party Discovery

To date, the Parties have served over 100 document subpoenas or FOIA requests on third-parties, which has resulted in the production of approximately 240,000 third-party documents.

As part of this process, the Parties have spent considerable time conferring with the New York Department of Environmental Conservation and the Environmental Protection Agency and are continuing those conferrals regarding the timing and substance of the agencies' document productions. If necessary, the Court may be presented with a motion seeking to order speedier document productions from the agencies.

In addition to document subpoenas, Plaintiffs have served a third-party deposition subpoena on Pride Solvents & Chemical Co., Inc. ("Pride"), which was a distributor of chemical products on Long Island and has historically bought and sold some of the products at issue to various customers over the years. By agreement of the Parties and Pride, the deposition of Pride has been postponed until sometime in the latter half of September. Plaintiffs also have served third-party subpoenas seeking documents from Defendants' customers and other distributors.

IV. Other Discovery Items

The Court's Scheduling Order provides for depositions to take place between September 8, 2021 and June 3, 2022. (ECF 171). The Parties have been in discussion regarding remote and in-person deposition procedures. The Parties are also conferring regarding the scope of the Rule 30(b)(6) Deposition Notices that Plaintiffs served on Dow, Ferro, and Vulcan. The 84 newly-added Third-Party Defendants have not yet appeared in the cases, and have not participated in discussions regarding the timing of party or non-party depositions. Plaintiffs and Defendants will report back to the Court should any issues arise.

* * *

The Parties will provide the Court with a further update in the next regularly scheduled status report on November 30, 2021 but will promptly bring to the Court any issues requiring earlier intervention following good faith conferral.



Hon. Nina Gershon
Hon. Roanne L. Mann
Page 3

September 1, 2021

Respectfully submitted,

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¹ The Sher Edling firm represents all Plaintiffs in these related cases except Plaintiffs New York American Water (19-cv-2150) and Hicksville Water District (19-cv-5632).



Hon. Nina Gershon
Hon. Roanne L. Mann
Page 4

September 1, 2021

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Hon. Nina Gershon
Hon. Roanne L. Mann
Page 5

September 1, 2021

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Hon. Nina Gershon
Hon. Roanne L. Mann
Page 6

September 1, 2021

EXHIBIT A

Third Party	Case
100 East Properties LLC	New York American Water
101 Frost Street Associates, L.P.	Town of Hempstead
1025 II LLC	Town of Hempstead
120Marcus Realty LLC	SCWA
129 Real Estate Management LLC.	Town of Hempstead
1st State LLC	Town of Hempstead
225 Robbins LLC	Jericho
230 Duffy Owner LLC	Hicksville
233 Robbins Holding LLC	Jericho
325 Duffy Owner LLC	Hicksville
40 Roselle LLC	Mineola Village
5 Cuba Hill Owner LLC	SCWA
55 Motor Avenue Co., LLC	New York American Water, South Farmingdale
550 Liberty Plaza LLC	SCWA
570 Properties, Inc.	Town of Hempstead
65 Daly Road LLC	Greenlawn
66 Brooklyn Ave LLC	Town of Hempstead
750 Summa Avenue LLC	Town of Hempstead
Airport Plaza, LLC	SCWA
Alkier Steel, LLC	Hempstead Village
Amee A. Patel	Town of Hempstead
Anthony Antoniou	SCWA
Anwar Chitayat, as Trustee of the Anwar Chitayat Environmental Trust	SCWA
Arkwin Industries, Inc.	Town of Hempstead
Ashwinkumar Somabhai Patel as Trustee for the Patel Trust of July 29, 1977 of California	Town of Hempstead



Hon. Nina Gershon
Hon. Roanne L. Mann
Page 7

September 1, 2021

Third Party	Case
Associated Brook, Inc.	Bethpage, New York American Water, South Farmingdale
B. Shell Realty, LLC	Franklin Square, New York American Water
Breeze-Eastern LLC	New York American Water
Conair Corporation	Garden City Village
County of Nassau	Hempstead Village, Town of Hempstead
Crescent Group Realty Inc.	SCWA
Empire Properties LI LLC	SCWA
Equity One (Northeast Portfolio) LLC	Hempstead Village, Town of Hempstead
FED 270-280 LLC	Hicksville, Town of Hempstead
FED 290 LLC	Hicksville, Town of Hempstead
FED 717-725 LLC	SCWA
FED John LLC	Hicksville
FGG Realty Associates, LLC	SCWA
Fortune Avenue Holdings LLC	Hempstead Village
Gordon-Atlantic Corp.	Garden City Village
Grand Machinery Exchange, Inc.	Town of Hempstead
GSM 270-280 LLC	Hicksville, Town of Hempstead
GSM 290 LLC	Hicksville, Town of Hempstead
GSM 717-725 LLC	SCWA
GSM John LLC	Hicksville
H.D.P. Printing Industries Corp.	Town of Hempstead
ICA 270-280 LLC	Hicksville, Town of Hempstead
ICA 290 LLC	Hicksville, Town of Hempstead
ICA 717-725 LLC	SCWA
ICA John LLC	Hicksville
K.B. Co. 2 L.P.	Hicksville



Hon. Nina Gershon
Hon. Roanne L. Mann
Page 8

September 1, 2021

Third Party	Case
Leonard Cohen	Town of Hempstead
Long Island Jewish Medical Center	Great Neck North, Manhasset-Lakeville
Loni-Jo Realty Co., LLC	Town of Hempstead
Mako Properties, LLC	SCWA
Metpar Corp.	Town of Hempstead
Mineola 435, LLC	Franklin Square, Garden City Village, West Hempstead
Nassau Steel, LLC	Bethpage, South Farmingdale
Neal Shalom as Trustee of the 1111 Marcus Avenue Grantor Trust	Great Neck North, Manhasset-Lakeville
Nest Equities, Inc.	Town of Hempstead
Next Millennium Realty LLC	Town of Hempstead
Norma Cohen	Town of Hempstead
Northrop Grumman Corporation	Bethpage, New York American Water, South Farmingdale
Oerlikon Metco (US) Inc.	Hicksville, Town of Hempstead
Omega Melville LLC	SCWA
One Adams Owner LLC	SCWA
Rajen A. Patel	Town of Hempstead
SAF 270-280 LLC	Hicksville, Town of Hempstead
SAF 290 LLC	Hicksville, Town of Hempstead
SAF 717-725 LLC	SCWA
SAF John LLC	Hicksville
Seaboard Estates Inc.	Western Nassau County
Steel Forest, LLC	SCWA



Hon. Nina Gershon

Hon. Roanne L. Mann

Page 9

September 1, 2021

Third Party	Case
Steel Mineola Second Street, LLC	Hempstead Village
Steel-Los III L.P.	Bethpage, New York American Water, South Farmingdale
Stone Post, Inc.	Town of Hempstead
Syosset Park Development, LLC	Jericho
The Suffolk County Landbank Corporation	SCWA
Town of Babylon	SCWA
Town of Islip	SCWA
Town of North Hempstead	Port Washington
Town of Oyster Bay	New York American Water, South Farmingdale
United States of America	Bethpage, South Farmingdale
Vars Re2, LLC	Western Nassau County